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CLERK U.S. DISTRICT COURT
CENTRAL DIST. OF CALIF.
LOS ANGELES

BY _____

6 Attorneys for Plaintiff Edmunds.com, Inc.

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UNITED STATES DISTRICT COURT

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CENTRAL DISTRICT OF CALIFORNIA

10 EDMUNDS.COM, INC., a New York
corporation,

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Plaintiff,

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v.

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14 TRUECAR, INC., a Delaware corporation,
and Does 1-50, inclusive,

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Defendants.

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Case No.

CV09 09181 VBF (Ex)**COMPLAINT FOR DAMAGES
AND INJUNCTIVE RELIEF**

- (1) **SERVICE MARK
INFRINGEMENT**
- (2) **FEDERAL FALSE
DESIGNATION OF
ORIGIN**
- (3) **SERVICE MARK
INFRINGEMENT UNDER
STATE LAW**
- (4) **FALSE ADVERTISING
UNDER STATE LAW**
- (5) **UNFAIR COMPETITION
UNDER STATE UNFAIR
COMPETITION LAW**
- (6) **UNFAIR COMPETITION
UNDER COMMON LAW**

DEMAND FOR JURY TRIAL

INTRODUCTION

1
2 1. This action arises out of defendant's willful and intentional acts of
3 trademark infringement, unfair competition, and false advertising.

4 2. Plaintiff Edmunds.com, Inc. ("Edmunds") is an authoritative and
5 influential source of automotive information on the Internet. For the past 43 years,
6 Edmunds has provided automotive pricing guides and information to millions of
7 consumers through various Internet websites and print media. Edmunds owns
8 valuable intellectual property in the form of trademarks and other rights, which it
9 uses to communicate, educate, and advertise its products and services.

10 3. This action concerns Edmunds' "TRUE COST TO OWN" mark.
11 Edmunds has used this mark in connection with its online automotive pricing tools
12 continuously since 2002. Edmunds obtained a federal trademark registration for the
13 mark in 2008.

14 4. Defendant TrueCar, Inc. ("TrueCar") is a newly formed company that
15 seeks to compete with Edmunds. But rather than compete fairly and lawfully in the
16 marketplace, TrueCar has embarked on a deliberate strategy of trademark
17 infringement, deception, and capitalizing on Edmunds' intellectual properties and
18 goodwill. TrueCar's first acts included hiring two of Edmunds' senior executives.
19 Only weeks after their hiring, TrueCar announced with great fanfare that it had
20 created a "new, one-of-a-kind tool" called "True Cost" that provides substantially
21 similar online automotive pricing information as available on Edmunds' website.

22 5. Of course, TrueCar could have chosen from a plethora of similar, but
23 non-infringing names, for this supposed "new" tool, such as True Price, Real Price,
24 Actual Price, Real Cost, True Buy, or True Deal. Those names, however, would not
25 allow TrueCar to capitalize on Edmunds' intellectual property and goodwill.
26 Edmunds is informed and believes that, with the assistance of the two former
27 Edmunds executives, TrueCar deliberately chose to use True Cost as the name of its
28 "new" pricing tool, and to use the "TRUECOST" mark to signify this tool, because

1 TRUECOST is substantially similar to Edmunds' TRUE COST TO OWN mark. In
2 short, Edmunds is informed and believes that TrueCar intentionally seeks to create
3 confusion in the marketplace and to trade on Edmunds' mark and goodwill.

4 6. But it gets worse. After ignoring Edmunds' cease and desist letter to
5 stop its infringing conduct, TrueCar pressed ahead with its trademark registration
6 applications to the U.S. Patent and Trademark Office (the "Trademark Office"). On
7 November 13, 2009, the Trademark Office denied TrueCar's registration
8 applications "because of a likelihood of confusion" with Edmunds' TRUE COST
9 TO OWN mark. Applying the relevant factors, the Trademark Office concluded
10 that "an examination of the marks leads to the conclusion that they are likely to be
11 confused as emanating from the same source."

12 7. TrueCar, however, remains undeterred. It seems unfazed by the
13 Trademark Office's denial of its trademark applications and its determination that
14 the TRUECOST mark is confusingly similar to Edmunds' TRUE COST TO OWN
15 mark. TrueCar has elected to flout the law and to proceed with its infringing use of
16 the TRUECOST mark.

17 PARTIES

18 8. Edmunds is a New York corporation, with its principal place of
19 business in Santa Monica, California. Edmunds provides automotive pricing guides,
20 data, and other information to consumers through various Internet websites (and,
21 previously, through print media). The company was founded in 1966, and has
22 helped millions of consumers make automobile purchasing decisions. Edmunds is
23 the owner of the TRUE COST TO OWN mark, Trademark Registration No.
24 3,518,664.

25 9. Edmunds is informed and believes, and on that basis alleges that,
26 TrueCar was incorporated a few months ago in January 2009 in Delaware, and its
27 principal place of business is in Santa Monica, California. According to its website,
28 TrueCar sees itself as a competitor of Edmunds. TrueCar is using the infringing

1 TRUECOST mark, even after the Trademark Office denied TrueCar's trademark
 2 registration applications and determined that its mark is confusingly similar to
 3 Edmunds' TRUE COST TO OWN mark.

4 **JURISDICTION AND VENUE**

5 10. This Court has subject matter jurisdiction over this Complaint pursuant
 6 to 15 U.S.C. § 1121, and 28 U.S.C. §§ 1331 and 1338, because the action arises
 7 under the Lanham Act, 15 U.S.C. § 1051, *et seq.*, and pursuant to the supplemental
 8 jurisdiction provisions contained in 28 U.S.C. § 1367.

9 11. This Court has personal jurisdiction over TrueCar because TrueCar is a
 10 citizen of California. Venue is proper in this judicial district pursuant to 28 U.S.C.
 11 § 1391(b) and (c) because TrueCar resides in this judicial district.

12 **FACTS COMMON TO ALL COUNTS**

13 **A. Edmunds Is A Pioneer In Automotive Pricing Tools**

14 12. Edmunds was founded in 1966 to publish automotive pricing guides
 15 that would assist automobile buyers. Edmunds' mission is to be the most influential
 16 and authoritative source of automotive information.

17 13. In 1994, before the World Wide Web became mainstream, Edmunds'
 18 new car pricing data was first posted on the Internet through a "gopher site" that was
 19 known as "The Electronic Newsstand." This was the first time consumer
 20 automotive information had been provided through the Internet.

21 14. In early 1995, Edmunds launched www.edmunds.com, which was the
 22 first automotive information Web site. Edmunds.com predated the advent of
 23 automobile manufacturer Web sites and all other online automotive destinations.

24 15. In 1996, Edmunds launched Forums (previously known as Town Hall),
 25 the most established automotive message boards, where thousands of individuals
 26 meet to discuss all things automotive.

1 16. In the fall 2000, Edmunds launched its “True Market Value[®]” pricing
2 tools, which provide the estimated average price consumers are currently paying
3 dealers for new and used vehicles and in private party transactions.

4 17. In 2001 and 2002, Edmunds introduced an assortment of additional
5 content, including the unique “True Cost to Own” data which allows consumers to
6 compare what new cars will cost over the first five years of ownership.

7 **B. Edmunds Long-Standing Use Of The TRUE COST TO OWN Mark**

8 18. In May 2002, Edmunds began using the TRUE COST TO OWN mark
9 on its Edmunds.com website. Edmunds has used the TRUE COST TO OWN mark
10 continuously since May 2002 on the Internet in connection with one of its
11 automotive pricing tools. The TRUE COST TO OWN mark is featured prominently
12 on the Edmunds.com website, among other places, and is used to describe
13 Edmunds’ (i) proprietary tool that allows consumers to estimate and compare the
14 total five-year cost of buying and owning a vehicle, and (ii) the cost data generated
15 by that tool. Since 2002, there have been tens of millions of unique “hits” by
16 consumers on Edmunds’ TRUE COST TO OWN mark.

17 19. In addition to the TRUE COST TO OWN mark, Edmunds has used a
18 related TRUE COST OF INCENTIVES mark continuously since 2002 in offering
19 online information relating to vehicle manufacturer purchase incentives.
20 Accordingly, Edmunds has established a family of TRUE COST marks that have
21 been encountered by millions of consumers over a period of years.

22 20. Edmunds has invested and continues to invest substantial resources and
23 efforts in promoting the TRUE COST TO OWN mark as an identifier of the
24 proprietary tools and services offered by Edmunds.

25 21. As a result of Edmunds’ longstanding use of its TRUE COST TO
26 OWN mark, Edmunds has and claims extensive common law rights in this mark.

27 22. Edmunds’ longstanding use of its TRUE COST TO OWN mark has
28 resulted in substantial recognition and popularity among Internet users. The public

1 has come to identify the TRUE COST TO OWN mark exclusively with Edmunds.
2 The TRUE COST TO OWN mark has achieved secondary meaning, and is a
3 famous, strong, and well-known symbol of goods and services provided by
4 Edmunds and of Edmunds' goodwill and reputation.

5 23. A search of the term *true cost* (both with quotes and without quotes) on
6 the Google search engine produces Edmunds' website as the top search result,
7 whereas TrueCar's website does not appear within the first thirty results. Moreover,
8 Google suggests the phrase *true cost to own* as an alternative search phrase for *true*
9 *cost*.

10 24. In addition to its extensive common law rights in the mark, Edmunds
11 filed an application for the TRUE COST TO OWN mark with the U.S. Patent and
12 Trademark office. The mark was registered on October 14, 2008. Edmunds is the
13 owner of U.S. Registration No. 3,518,664 for TRUE COST TO OWN, in connection
14 with computer services, namely, providing an online, interactive database which
15 calculates the ownership costs of a vehicle over a specified time period. A true and
16 correct copy of the registration is attached as Exhibit A.

17 **C. New Company TrueCar And Its Infringing TRUECOST Mark**

18 25. Edmunds is informed and believes that TrueCar launched its
19 truecar.com website in July 2009, a few months after the company was formed in
20 January 2009.

21 26. Edmunds is informed and believes that, about one month later, on
22 August 5, 2009, TrueCar filed two applications for a trademark registration for
23 TRUECOST. (Application No. 77/797,978 and 77/824,851).

24 27. TrueCar's TRUECOST mark is confusingly similar to Edmunds'
25 TRUE COST TO OWN mark in appearance, pronunciation, and connotation and is
26 used in connection with similar services.

27 28. TRUECOST not only replicates the prominent introductory words of
28 Edmunds' mark but it is also entirely subsumed within Edmunds' mark. TrueCar's

1 mark does not contain any distinguishing element that would differentiate
2 TRUECOST from TRUE COST TO OWN.

3 29. TrueCar's services of providing automobile pricing and purchasing
4 information are directly competitive with Edmunds' services. Indeed, TrueCar's
5 website shows that TrueCar itself views Edmunds as a competitor, and that TrueCar
6 seeks to divert consumers from Edmunds' website and onto TrueCar's website.

7 **D. TrueCar's Use Of The TRUECOST Mark Is Part Of A Calculated**
8 **Campaign To Create Confusion**

9 30. TrueCar knew of Edmunds' prior use and registration of TRUE COST
10 TO OWN. Indeed, even a low-level search of the U.S. Trademark Office records
11 would have revealed Edmunds' registration.

12 31. But this is not a case where a trademark infringer merely ignored
13 evidence of prior use. Edmunds is informed and believes that TrueCar intentionally
14 chose to use a competitor's mark for the express purpose of sowing confusion and
15 luring consumers away from Edmunds' websites.

16 32. Edmunds is informed and believes that TrueCar sought to accomplish
17 this nefarious goal with the help of two former Edmunds executives that it recently
18 hired. According to TrueCar's website, TrueCar recently hired two senior
19 Edmunds' executives who were intimately familiar with Edmunds' use of the TRUE
20 COST TO OWN mark.

21 33. In a July 1, 2009 press release, a true and correct copy of which is
22 attached as Exhibit B, TrueCar announced that it hired Damon Clecker as Vice
23 President of Product Management. Clecker previously served as the Executive
24 Director of Product Management at Edmunds, and according to the press release,
25 "will be responsible for aiding in the development of innovative car pricing
26 tools...."

27 34. In an August 18, 2009 press release, a true and correct copy of which is
28 attached as Exhibit C, TrueCar announced that it hired Jesse Toprak as Vice

1 President of Industry (Trends and Insights). Toprak previously served as the
2 Executive Director of Industry Analysis at Edmunds, and according to the press
3 release, “will be responsible for analyzing and reporting on all relevant automotive
4 related topics, trends and insights for the industry and the media, as well as for
5 consumers.” While at Edmunds, Toprak had substantial responsibility for the
6 development, enhancement, and promotion of Edmunds’ pricing products.

7 35. On October 12, 2009, only a few weeks after hiring the former
8 Edmunds executives, TrueCar announced the release of its “new” “TrueCost” tool
9 through a press release. A true and correct copy of this press release is attached as
10 Exhibit D.

11 36. The press release makes it clear that TrueCar is intending to use, and is
12 using, the TRUECOST mark for services that are substantially similar to services
13 that Edmunds provides through the Edmunds.com website.

14 37. Edmunds sent a cease and desist letter to TrueCar on October 23, 2009.
15 Edmunds asked that TrueCar withdraw its trademark applications and to cease using
16 the TRUECOST mark. A true and correct copy of this letter is attached as Exhibit
17 E.

18 38. TrueCar said no. A true and correct copy of TrueCar’s letter of
19 November 9, 2009 is attached as Exhibit F.

20 **E. The Trademark Office Denied TrueCar’s Registration Because Its Mark**
21 **Is Confusingly Similar To Edmunds’ Mark – But TrueCar Persists On**
22 **Its Unlawful And Infringing Conduct**

23 39. Undeterred by Edmunds’ cease and desist letter, TrueCar pressed to
24 obtain a decision on its trademark registration applications from the Trademark
25 Office.

26 40. On November 13, 2009, the Trademark Office denied TrueCar’s
27 registration application “because of a likelihood of confusion” with Edmunds’
28

1 TRUE COST TO OWN mark. A true and correct copy of the Trademark Office's
2 denial is attached as Exhibit G.

3 41. The Trademark Office explained that, "in this case, the following
4 factors are the most relevant: similarity of the marks, similarity of the goods and/or
5 services, and similarity of trade channels of the goods and/or services." The
6 Trademark Office further explained that "both marks begin with the identical
7 wording TRUE COST. Consumers are generally more inclined to focus on the first
8 word, prefix or syllable in any trademark or service mark.... Consumers are likely to
9 believe that applicant's services are connected or sponsored by registrant; especially
10 when part of applicant's services are essentially the same."

11 42. Accordingly, the Trademark Office concluded that "an examination of
12 the marks leads to the conclusion that they are likely to be confused as emanating
13 from the same source."

14 43. One might think that the Trademark Office's denial of TrueCar's
15 registration applications would end the matter. But not even the denial of their
16 registration applications caused TrueCar to stop its unlawful conduct. TrueCar has
17 elected to flout the law and to proceed with its infringing use of the TRUECOST
18 mark. Edmunds was forced to file this action in order to compel TrueCar to stop its
19 unlawful conduct.

20 **COUNT I – FEDERAL SERVICE MARK INFRINGEMENT**

21 **15 U.S.C. § 1114**

22 44. Edmunds repeats and realleges every allegation contained in
23 paragraphs 1 – 43 as though fully set forth herein.

24 45. Edmunds is the owner of U.S. Service Mark Registration No.
25 3,518,664. for the TRUE COST TO OWN mark.

26 46. TrueCar has, without Edmunds' consent and as alleged more fully
27 herein, used a mark that is confusingly similar to Edmunds' TRUE COST TO OWN
28 mark.

1 47. The foregoing acts of TrueCar constitute service mark infringement in
2 violation of Section 32 of the Lanham Act, 15 U.S.C. § 1114.

3 48. TrueCar's actions are likely to cause confusion or cause mistake, or to
4 deceive the relevant consuming public.

5 49. Edmunds has suffered, is suffering, and will continue to suffer
6 irreparable injury for which it has no adequate remedy at law. Edmunds therefore is
7 entitled to an immediate and permanent injunction against further infringing conduct
8 by TrueCar.

9 50. Edmunds is informed and believes, and on that basis alleges, that
10 TrueCar has profited and is profiting, financially or otherwise, from such
11 infringement and Edmunds has been and is being damaged by such infringement.
12 Edmunds therefore is entitled to recover damages and/or profits from TrueCar in an
13 amount to be proved at trial as a consequence of TrueCar's infringing activities.

14 51. TrueCar's infringing conduct has been willful, wanton, and malicious,
15 and done with an intent to deceive. Edmunds therefore is entitled to an award of its
16 reasonable attorneys' fees and costs, profits, and treble its actual damages pursuant
17 to 15 U.S.C. § 1117(a). Edmunds also is entitled to, among other things, the cost of
18 corrective advertising.

19 **COUNT II – FEDERAL FALSE DESIGNATION OF ORIGIN**

20 **15 U.S.C. § 1125(A)(1)**

21 52. Edmunds repeats and realleges every allegation contained in
22 paragraphs 1 – 51 as though fully set forth herein.

23 53. TrueCar's acts as alleged herein also constitute false designation of
24 origin, unfair competition and false advertising in violation of Lanham Act Section
25 43(a), 15 U.S.C. § 1125(a).

26 54. Edmunds has suffered, is suffering, and will continue to suffer
27 irreparable injury for which it has no adequate remedy at law. Edmunds therefore is
28

1 entitled to an immediate and permanent injunction against further infringing conduct
2 by TrueCar.

3 55. Edmunds is informed and believes, and on that basis alleges, that
4 TrueCar has profited and is profiting, financially or otherwise, from such false
5 designation and Edmunds has been and is being damaged by such false designation.
6 Edmunds therefore is entitled to recover damages from TrueCar in an amount to be
7 proved at trial as a consequence of TrueCar's activities.

8 56. TrueCar's conduct has been willful, wanton, and malicious. Edmunds
9 therefore is entitled to an award of its reasonable attorneys' fees and costs, profits,
10 and treble its actual damages, pursuant to 15 U.S.C. § 1117(a). Edmunds is also
11 entitled to, among other things, the cost of corrective advertising.

12 **COUNT III – SERVICE MARK INFRINGEMENT**

13 **UNDER COMMON LAW**

14 57. Edmunds repeats and realleges every allegation contained in
15 paragraphs 1 – 56 as though fully set forth herein.

16 58. TrueCar's use of a mark that is confusingly similar to Edmunds' mark
17 is likely to cause confusion, mistake, and deception with regard to the source,
18 sponsorship, or affiliation with Edmunds.

19 59. TrueCar's activities constitute common law trademark infringement
20 and unfair business competition, and have caused, and, unless enjoined by this
21 Court, will continue to cause confusion and public deception in the marketplace and
22 injury to Edmunds' goodwill and reputation as symbolized by the TRUE COST TO
23 OWN mark, for which Edmunds has no adequate remedy at law.

24 60. Edmunds is informed and believes that TrueCar acted with full
25 knowledge of Edmunds' use of, and statutory and common law rights to, the TRUE
26 COST TO OWN MARK, and without regard to the likelihood of confusion created
27 by TrueCar's activities.
28

1 61. TrueCar's conduct demonstrates an intentional, willful, and malicious
2 intent to trade on the goodwill associated with Edmunds' famous TRUE COST TO
3 OWN mark, thereby causing immediate, substantial, and irreparable injury to
4 Edmunds.

5 62. Edmunds has suffered, is suffering, and will continue to suffer
6 irreparable injury for which Edmunds has no adequate remedy at law. Edmunds
7 therefore is entitled to an immediate and permanent injunction against further
8 infringing conduct by TrueCar.

9 63. Edmunds is informed and believes, and on that basis alleges, that
10 TrueCar has profited and is profiting, financially or otherwise, from such
11 infringement and Edmunds has been and is being damaged by such infringement.
12 Edmunds therefore is entitled to recover damages from TrueCar in an amount to be
13 proved at trial as a consequence of TrueCar's infringing activities.

14 **COUNT VI – FALSE ADVERTISING UNDER STATE LAW**
15 **(CALIFORNIA BUS. & PROF. CODE § 17500 ET SEQ.)**

16 64. Edmunds repeats and realleges every allegation contained in
17 paragraphs 1 – 63 as though fully set forth herein.

18 65. TrueCar's acts as alleged herein constitute the use of deceptive, untrue,
19 and misleading advertising, of which TrueCar knew or should have known, thereby
20 impairing Edmunds's goodwill and otherwise adversely affecting Edmunds'
21 organization and reputation. These acts constitute false advertising under California
22 Business and Professions Code § 17500 et seq. and California common law.

23 66. Absent injunctive relief, Edmunds has no means by which to control
24 TrueCar's deceptive, untrue, and misleading advertising. Edmunds therefore is
25 entitled to injunctive relief prohibiting TrueCar from continuing such acts.
26
27
28

**COUNT V – UNFAIR COMPETITION UNDER STATE UNFAIR
COMPETITION LAW (CAL. BUS. & PROF. CODE § 17200 ET SEQ.)**

67. Edmunds repeats and realleges every allegation contained in paragraphs 1 – 66 as though fully set forth herein.

68. TrueCar's acts as alleged herein constitute unlawful, unfair or fraudulent business acts or practices, and unfair, deceptive, untrue or misleading advertising, under California Business and Professions Code § 17200 et seq.

69. Absent injunctive relief, Edmunds has no means by which to control TrueCar's unlawful, unfair or fraudulent business acts or practices, and unfair, deceptive, untrue or misleading advertising. Edmunds therefore is entitled to injunctive relief prohibiting TrueCar from continuing such acts.

COUNT VI – UNFAIR COMPETITION UNDER STATE COMMON LAW

70. Edmunds repeats and realleges every allegation contained in paragraphs 1 – 69 as though fully set forth herein.

71. TrueCar's acts as alleged herein constitute unfair competition under California common law.

72. Absent injunctive relief, Edmunds has no means by which to control TrueCar's unfair competition. Edmunds therefore is entitled to injunctive relief prohibiting TrueCar from continuing such acts.

73. Edmunds is informed and believes, and on that basis alleges, that TrueCar has profited and is profiting, financially or otherwise, from such unfair competition and that Edmunds has been and is being damaged by such unfair competition. Edmunds therefore is entitled to recover damages from TrueCar in an amount to be proved at trial as a consequence of TrueCar's unfair competition.

74. Edmunds is informed and believes, and on that basis alleges, that TrueCar acted with oppression, fraud or malice in committing unfair competition, so as to justify an award of punitive damages.

1 WHEREFORE, Edmunds respectfully prays for Judgment to be entered
2 against TrueCar as follows:

3 A. Preliminarily and permanently restraining and enjoining TrueCar, its
4 officers, agents, servants, employees, and attorneys, and those persons in active
5 concert or participation with TrueCar who receive actual notice thereof, jointly and
6 severally:

7 1. from registering, maintaining, or using the TRUECOST mark
8 (regardless of whether there is any spacing between the words true and cost).

9 2. from registering, maintaining, or using any mark that is
10 confusingly similar to Edmunds' TRUE COST TO OWN mark;

11 3. from registering, maintaining, or using any mark in which the
12 words "true" and "cost" are adjacent to each other (with or without a space), in
13 connection with online automotive pricing tools;

14 4. from using any words, names, styles, designs, titles, or marks
15 that create a likelihood of injury to the reputation of Edmunds or a likelihood of
16 dilution of Edmunds' mark and the goodwill associated therewith;

17 5. from continuing to perform in any manner whatsoever any of the
18 unlawful acts complained of in this Complaint; and

19 6. from causing, engaging in or permitting others to do any of the
20 aforesaid acts.

21 B. Directing TrueCar to deliver to this Court, by a date which the Court
22 shall direct, for impounding, destruction or other disposition, all materials bearing
23 the TRUECOST mark in TrueCar's possession, custody or control, including,
24 without limitation, all websites, informational material, merchandise, transfer
25 designs, packaging, package inserts, labels, signs, prints, wrappers, advertising or
26 other materials and the means for making or reproducing same, that violate the
27 provisions of Paragraph A above, or any portion thereof;

28

1 C. Directing TrueCar to file with the Court and serve on counsel for
2 Edmunds within thirty (30) days after entry of any preliminary or permanent
3 injunction issued by the Court in this action, a sworn written statement as provided
4 in 15 U.S.C. § 1116 setting forth in detail the manner and form in which TrueCar
5 has complied with the injunction;

6 D. Directing TrueCar to account for and relinquish to Edmunds all direct
7 and indirect gains, profits, and advantages derived from TrueCar's wrongful acts
8 above described;

9 E. Directing that TrueCar pay Edmunds such damages as Edmunds has
10 sustained as a consequence of TrueCar's wrongful acts complained of herein;

11 F. Directing that the aforesaid amounts be multiplied or otherwise
12 enhanced as authorized by law;

13 G. Awarding Edmunds on its state law claims compensatory damages in
14 an amount to be determined at trial;

15 H. Awarding Edmunds punitive damages in such amount as may be
16 determined at trial;

17 I. Awarding Edmunds prejudgment interest according to law;

18 J. Finding this to be an "exceptional case," because of the willful and
19 outrageous nature of these violations, and directing that TrueCar pay Edmunds the
20 costs of this action and its reasonable attorneys' fees pursuant to 15 U.S.C. § 1117;
21 and

22 K. Granting Edmunds such other and further relief as the Court may deem
23 just and proper.

24 DATED: December 14, 2009

BERT H. DEIXLER
NAVID SOLEYMANI
PROSKAUER ROSE LLP



Navid Soleymani

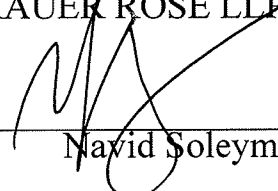
Attorneys for Edmunds.com, Inc.

DEMAND FOR JURY TRIAL

Edmunds demands a trial by jury on all issues so triable.

DATED: December 14, 2009

BERT H. DEIXLER
NAVID SOLEYMANI
PROSKAUER ROSE LLP

By:  _____
Navid Soleymani

Attorneys for Plaintiff
Edmunds.com, Inc.

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

NOTICE OF ASSIGNMENT TO UNITED STATES MAGISTRATE JUDGE FOR DISCOVERY

This case has been assigned to District Judge Valerie Baker Fairbank and the assigned discovery Magistrate Judge is Charles Eick.

The case number on all documents filed with the Court should read as follows:

CV09 - 9181 VBF (Ex)

Pursuant to General Order 05-07 of the United States District Court for the Central District of California, the Magistrate Judge has been designated to hear discovery related motions.

All discovery related motions should be noticed on the calendar of the Magistrate Judge

=====

NOTICE TO COUNSEL

A copy of this notice must be served with the summons and complaint on all defendants (if a removal action is filed, a copy of this notice must be served on all plaintiffs).

Subsequent documents must be filed at the following location:

☒ **Western Division**
312 N. Spring St., Rm. G-8
Los Angeles, CA 90012

☐ **Southern Division**
411 West Fourth St., Rm. 1-053
Santa Ana, CA 92701-4516

☐ **Eastern Division**
3470 Twelfth St., Rm. 134
Riverside, CA 92501

Failure to file at the proper location will result in your documents being returned to you.

COPY

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

EDMUNDS.COM, INC., a New York
corporation

PLAINTIFF(S)

v.

TRUECAR, INC., a Delaware corporation,
and DOES 1-50, inclusive

DEFENDANT(S).

CASE NUMBER

CV09 09181 VBF (Ex)

SUMMONS

TO: DEFENDANT(S): TRUECAR, INC.

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it), you must serve on the plaintiff an answer to the attached ☒ complaint ☐ amended complaint ☐ counterclaim ☐ cross-claim or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff's attorney, BERT H. DEIXLER, whose address is PROSKAUER ROSE LLP, 2049 Century Park East, 32nd Floor, Los Angeles, CA 90067-3206. If you fail to do so, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

Clerk, U.S. District Court

DEC 15 2009

Dated: _____

By: _____

CHRISTOPHER POWERS

Deputy Clerk

(Seal of the Court)

[Use 60 days if the defendant is the United States or a United States agency, or is an officer or employee of the United States. Allowed 60 days by Rule 12(a)(3)].

UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA
CIVIL COVER SHEET

COPY

I (a) PLAINTIFFS (Check box if you are representing yourself ☐)

EDMUNDS.COM, INC., a New York corporation

DEFENDANTSTRUECAR, INC., a Delaware corporation,
and DOES 1-50, inclusive**(b) Attorneys** (Firm Name, Address and Telephone Number. If you are representing yourself, provide same.)BERT H. DEIXLER (SBN 070614) bdeixler@proskauer.com
NAVID SOLEYMANI (SBN 219190) nsoleymani@proskauer.com
PROSKAUER ROSE LLP
2049 Century Park East, 32nd Floor
Los Angeles, CA 90067-3206
(310) 557-2900 phone / (310) 557-2193 fax**Attorneys (If Known)**

Unknown

II. BASIS OF JURISDICTION (Place an X in one box only.)

- ☐
- 1 U.S. Government Plaintiff
- ☒
- 3 Federal Question (U.S. Government Not a Party)
-
- ☐
- 2 U.S. Government Defendant
- ☐
- 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES - For Diversity Cases Only
(Place an X in one box for plaintiff and one for defendant.)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business in this State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business in Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. ORIGIN (Place an X in one box only.)

- ☒
- 1 Original Proceeding
- ☐
- 2 Removed from State Court
- ☐
- 3 Remanded from Appellate Court
- ☐
- 4 Reinstated or Reopened
- ☐
- 5 Transferred from another district (specify):
- ☐
- 6 Multi-District Litigation
- ☐
- 7 Appeal to District Judge from Magistrate Judge

V. REQUESTED IN COMPLAINT: JURY DEMAND: ☒ Yes ☐ No (Check 'Yes' only if demanded in complaint.)**CLASS ACTION under F.R.C.P. 23:** ☐ Yes ☒ No☒ **MONEY DEMANDED IN COMPLAINT: \$ unspecified****VI. CAUSE OF ACTION** (Cite the U.S. Civil Statute under which you are filing and write a brief statement of cause. Do not cite jurisdictional statutes unless diversity.)

Lanham Act, 15 USC § 1051, et seq.; causes of action for (1) Federal Service Mark Infringement (15 USC § 1114), (2) Federal False Designation of Origin (15 USC § 1125(A)(1)), (3) Service Mark Infringement Under Common Law, (4) False Advertising Under State Law (Cal. B&P Code § 17500 et seq.), (5) Unfair Competition Under State Unfair Competition Law (Cal. B&P Code § 17200 et seq.), (6), Unfair Competition Under State Common Law

VII. NATURE OF SUIT (Place an X in one box only.)

OTHER STATUTES	CONTRACT	TORTS PERSONAL INJURY	TORTS PERSONAL PROPERTY	PRISONER PETITIONS	LABOR
<input type="checkbox"/> 400 State Reapportionment	<input type="checkbox"/> 110 Insurance	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 370 Other Fraud	<input type="checkbox"/> 510 Motions to Vacate Sentence	<input type="checkbox"/> 710 Fair Labor Standards Act
<input type="checkbox"/> 410 Antitrust	<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 371 Truth in Lending	<input type="checkbox"/> 530 General Habeas Corpus	<input type="checkbox"/> 720 Labor/Mgmt. Relations
<input type="checkbox"/> 430 Banks and Banking	<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 320 Assault, Libel & Slander	<input type="checkbox"/> 380 Other Personal Property Damage	<input type="checkbox"/> 535 Death Penalty	<input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act
<input type="checkbox"/> 450 Commerce/ICC Rates/etc.	<input type="checkbox"/> 140 Negotiable Instrument	<input type="checkbox"/> 330 Fed. Employers' Liability	<input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 540 Mandamus/Other	<input type="checkbox"/> 740 Railway Labor Act
<input type="checkbox"/> 460 Deportation	<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 340 Marine	BANKRUPTCY	<input type="checkbox"/> 550 Civil Rights	<input type="checkbox"/> 790 Other Labor Litigation
<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations	<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 345 Marine Product Liability	<input type="checkbox"/> 422 Appeal 28 USC 158	<input type="checkbox"/> 555 Prison Condition	<input type="checkbox"/> 791 Empl. Ret. Inc. Security Act
<input type="checkbox"/> 480 Consumer Credit	<input type="checkbox"/> 152 Recovery of Defaulted Student Loan (Excl. Veterans)	<input type="checkbox"/> 350 Motor Vehicle	<input type="checkbox"/> 423 Withdrawal 28 USC 157	FORFEITURE/PENALTY	PROPERTY RIGHTS
<input type="checkbox"/> 490 Cable/Sat TV	<input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits	<input type="checkbox"/> 355 Motor Vehicle Product Liability	CIVIL RIGHTS	<input type="checkbox"/> 610 Agriculture	<input type="checkbox"/> 820 Copyrights
<input type="checkbox"/> 810 Selective Service	<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 441 Voting	<input type="checkbox"/> 620 Other Food & Drug	<input type="checkbox"/> 830 Patent
<input type="checkbox"/> 850 Securities/Commodities/Exchange	<input type="checkbox"/> 190 Other Contract	<input type="checkbox"/> 362 Personal Injury-Med Malpractice	<input type="checkbox"/> 442 Employment	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881	<input checked="" type="checkbox"/> 840 Trademark
<input type="checkbox"/> 875 Customer Challenge 12 USC 3410	<input type="checkbox"/> 195 Contract Product Liability	<input type="checkbox"/> 365 Personal Injury-Product Liability	<input type="checkbox"/> 443 Housing/Accommodations	<input type="checkbox"/> 630 Liquor Laws	SOCIAL SECURITY
<input type="checkbox"/> 890 Other Statutory Actions	<input type="checkbox"/> 196 Franchise	<input type="checkbox"/> 368 Asbestos Personal Injury Product Liability	<input type="checkbox"/> 444 Welfare	<input type="checkbox"/> 640 R.R. & Truck	<input type="checkbox"/> 861 HIA (1395ff)
<input type="checkbox"/> 891 Agricultural Act	REAL PROPERTY	IMMIGRATION	<input type="checkbox"/> 445 American with Disabilities - Employment	<input type="checkbox"/> 650 Airline Regs	<input type="checkbox"/> 862 Black Lung (923) (405(g))
<input type="checkbox"/> 892 Economic Stabilization Act	<input type="checkbox"/> 210 Land Condemnation	<input type="checkbox"/> 462 Naturalization Application	<input type="checkbox"/> 446 American with Disabilities - Other	<input type="checkbox"/> 660 Occupational Safety/Health	<input type="checkbox"/> 863 DIWC/DIWW (405(g))
<input type="checkbox"/> 893 Environmental Matters	<input type="checkbox"/> 220 Foreclosure	<input type="checkbox"/> 463 Habeas Corpus-Alien Detainee	<input type="checkbox"/> 440 Other Civil Rights	<input type="checkbox"/> 690 Other	<input type="checkbox"/> 864 SSID Title XVI
<input type="checkbox"/> 894 Energy Allocation Act	<input type="checkbox"/> 230 Rent Lease & Ejectment	<input type="checkbox"/> 465 Other Immigration Actions			FEDERAL TAX SUITS
<input type="checkbox"/> 895 Freedom of Info. Act	<input type="checkbox"/> 240 Torts to Land				<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)
<input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice	<input type="checkbox"/> 245 Tort Product Liability				<input type="checkbox"/> 871 IRS - Third Party 26 USC 7609
<input type="checkbox"/> 950 Constitutionality of State Statutes	<input type="checkbox"/> 290 All Other Real Property				

CV09 09181

FOR OFFICE USE ONLY: Case Number: _____

AFTER COMPLETING THE FRONT SIDE OF FORM CV-71, COMPLETE THE INFORMATION REQUESTED BELOW.

UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA
CIVIL COVER SHEET

VIII(a). IDENTICAL CASES: Has this action been previously filed in this court and dismissed, remanded or closed? ☒ No ☐ Yes

If yes, list case number(s): _____

VIII(b). RELATED CASES: Have any cases been previously filed in this court that are related to the present case? ☒ No ☐ Yes

If yes, list case number(s): _____

Civil cases are deemed related if a previously filed case and the present case:

- (Check all boxes that apply) ☐ A. Arise from the same or closely related transactions, happenings, or events; or
☐ B. Call for determination of the same or substantially related or similar questions of law and fact; or
☐ C. For other reasons would entail substantial duplication of labor if heard by different judges; or
☐ D. Involve the same patent, trademark or copyright, and one of the factors identified above in a, b or c also is present.

IX. VENUE: (When completing the following information, use an additional sheet if necessary.)

(a) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which **EACH** named plaintiff resides.

☐ Check here if the government, its agencies or employees is a named plaintiff. If this box is checked, go to item (b).

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
Plaintiff Edmunds.com, Inc. is a resident of the County of Los Angeles	

(b) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which **EACH** named defendant resides.

☐ Check here if the government, its agencies or employees is a named defendant. If this box is checked, go to item (c).

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
Defendant TrueCar, Inc. is a resident of the County of Los Angeles	

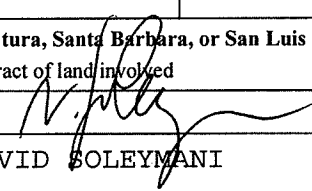
(c) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which **EACH** claim arose.

Note: In land condemnation cases, use the location of the tract of land involved.

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
Los Angeles County, California	

* Los Angeles, Orange, San Bernardino, Riverside, Ventura, Santa Barbara, or San Luis Obispo Counties

Note: In land condemnation cases, use the location of the tract of land involved

X. SIGNATURE OF ATTORNEY (OR PRO PER):  **Date** December 14, 2009

NAVID SOLEYMANI

Notice to Counsel/Parties: The CV-71 (JS-44) Civil Cover Sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law. This form, approved by the Judicial Conference of the United States in September 1974, is required pursuant to Local Rule 3-1 is not filed but is used by the Clerk of the Court for the purpose of statistics, venue and initiating the civil docket sheet. (For more detailed instructions, see separate instructions sheet.)

Key to Statistical codes relating to Social Security Cases:

Nature of Suit Code	Abbreviation	Substantive Statement of Cause of Action
861	HIA	All claims for health insurance benefits (Medicare) under Title 18, Part A, of the Social Security Act, as amended. Also, include claims by hospitals, skilled nursing facilities, etc., for certification as providers of services under the program. (42 U.S.C. 1935FF(b))
862	BL	All claims for "Black Lung" benefits under Title 4, Part B, of the Federal Coal Mine Health and Safety Act of 1969. (30 U.S.C. 923)
863	DIWC	All claims filed by insured workers for disability insurance benefits under Title 2 of the Social Security Act, as amended; plus all claims filed for child's insurance benefits based on disability. (42 U.S.C. 405(g))
863	DIWW	All claims filed for widows or widowers insurance benefits based on disability under Title 2 of the Social Security Act, as amended. (42 U.S.C. 405(g))
864	SSID	All claims for supplemental security income payments based upon disability filed under Title 16 of the Social Security Act, as amended.
865	RSI	All claims for retirement (old age) and survivors benefits under Title 2 of the Social Security Act, as amended. (42 U.S.C. (g))